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8 **BEFORE THE**
9 **CALIFORNIA BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 DAVID L. ULBRICH, CPA
14 5400 Yarmouth Avenue, #201
15 Encino, California 91316
16 24331 Martha Street
17 Woodland Hills, California 91367
18 Certificate No. 47320

Respondent.

Case No. AC-2002-19

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

18 FINDINGS OF FACT

19 1. On or about July 8, 2002, Complainant Carol Sigmann, in her official
20 capacity as Executive Officer of the California Board of Accountancy, Department of Consumer
21 Affairs, State of California, filed Accusation No. AC-2002-19 against David L. Ulbrich, CPA
22 (Respondent) before the California Board of Accountancy (Board).

23 2. On or about January 30, 1987, the Board issued Certificate No. 47320
24 (CPA) to Respondent. The license was last renewed in "inactive" status on December 10, 1998.
25 The license expired on November 30, 2000. On March 2, 1999, Respondent was issued a
26 citation (CT-1999-114) for engaging in the practice of public accountancy with an expired CPA
27 license. The citation was paid in full on April 25, 2000. The initial license issued expired on
28 November 30, 1988, and was not renewed until March 27, 1990. The license expiring on

1 November 30, 1990, was renewed on January 11, 1991. The license expiring on November 30,
2 1992, was renewed on January 25, 1993. The license expiring on November 30, 1994, was
3 renewed on January 25, 1995. The license expiring on November 30, 1996, was not renewed
4 until October 8, 1997 (with this renewal the licensee converted from "active" to "inactive"
5 status). The license expiring on November 30, 1998, was renewed on December 10, 1998.

6 3. On or about July 16, 2002, Henrietta Gaviola, an employee of the
7 Department of Justice, served by Certified (article number 7001 0360 0000 6046 6812) and First
8 Class Mail a copy of the Accusation No. AC-2002-19, Statement to Respondent, Notice of
9 Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7
10 to Respondent's address of record with the Board, which was and is 5400 Yarmouth Avenue,
11 #201, Encino, California 91316. Copies of the Accusation, the related documents, and
12 Declaration of Service are attached and incorporated herein by reference.

13 4. On or about July 19, 2002, both the Certified and First Class Mail
14 containing the aforementioned documents were returned by the U.S. Postal Service marked
15 "Returned to Sender Forwarding Order Expired." Copies of the postal returned documents are
16 attached and incorporated herein by reference.

17 5. On or about July 16, 2002, Henrietta Gaviola, an employee of the
18 Department of Justice, served by Certified (article number 7001 0360 0003 2718 4091) and First
19 Class Mail a copy of the Accusation No. AC-2002-19, Statement to Respondent, Notice of
20 Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7
21 to Respondent at an address known to the Board, which was and is 24331 Martha Street,
22 Woodland Hills, CA 91367.

23 6. On or about July 19, 2002, both the Certified and First Class Mail
24 containing the aforementioned documents were returned by the U.S. Postal Service marked
25 "Return to Sender Ulbrich' David L Moved Left No Address Unable to Forward Return to
26 Sender." Copies of the postal returned documents are attached and incorporated herein by
27 reference.

28 7. On or about July 16, 2002, Henrietta Gaviola, an employee of the

1 Department of Justice, served by Certified (article number 7001 0360 0003 2718 4275) and Fir
2 Class Mail a copy of the Accusation No. AC-2002-19, Statement to Respondent, Notice of
3 Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7
4 to Respondent at another address known to the Board, which is 5446 Newcastle Avenue, Apt. 28,
5 Encino, California 91316.

6 8. On or about September 9, 2002, the Certified Mail containing the
7 aforementioned documents was returned by the U.S. Postal Service marked "Returned to Sender
8 Unclaimed" after two notices to the addressee. Copies of the postal returned documents are
9 attached and incorporated herein by reference.

10 9. Service of the Accusation was effective as a matter of law under the
11 provisions of Government Code section 11505, subdivision (c).

12 10. Government Code section 11506 states, in pertinent part:

13 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
15 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
16 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

17 11. Respondent failed to file a Notice of Defense within 15 days after service
18 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
19 Accusation No. AC-2002-19.

20 12. California Government Code section 11520 states, in pertinent part:

21 "(a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions or upon
23 other evidence and affidavits may be used as evidence without any notice to respondent."

24 13. Pursuant to its authority under Government Code section 11520, the Board
25 finds Respondent is in default. The Board will take action without further hearing and, based on
26 Respondent's express admissions by way of default and the evidence before it, finds that the
27 allegations in Accusation No. AC-2002-19 are true.

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1 14. The total costs for investigation and enforcement are \$3,450.64 as of
2 August 22, 2002.

3 DETERMINATION OF ISSUES

4 1. Based on the foregoing findings of fact, Respondent has subjected his
5 Certificate to discipline.

6 2. A copy of the Accusation and the related documents and Declaration of
7 Service are incorporated herein by reference.

8 3. The agency has jurisdiction to adjudicate this case by default.

9 4. The California Board of Accountancy is authorized to revoke
10 Respondent's Certificate based upon the following violations alleged in the Accusation:

11 a. Business and Professions Code sections 5100(f) and 5050 [practicing
12 accounting with an expired license.]

13 b. Business and Professions Code section 5100(f) and California Code of
14 Regulations, title 16, section 80(a) [engaging in the practice of public accountancy with an
15 inactive license.]

16 c. Business and Professions Code section 5100(f) and California Code of
17 Regulations, title 16, section 3(a)(1) [failure to notify Board of any change of address within 30
18 days.]

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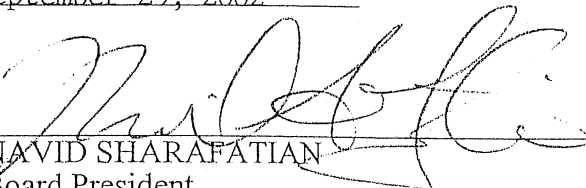
ORDER

IT IS SO ORDERED that Certificate No. 47320, heretofore issued to Respondent David L. Ulbrich, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on October 25, 2002.

It is so ORDERED September 25, 2002



NAVID SHARAFATIAN
Board President
California Board of Accountancy
Department of Consumer Affairs

03541110-LA2002AD1009
krk

Exhibit A

Accusation No. AC-2002-19,
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General
of the State of California
2 LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-6375
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2002-19

12 DAVID L. ULBRICH, CPA
5400 Yarmouth Avenue #201
13 Encino, California 91316
14 24331 Martha Street
Woodland Hills, California 91367
15 Certificate No. 47320

ACCUSATION

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17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Carol Sigmann (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the California Board of Accountancy,
23 Department of Consumer Affairs.

24 2. On or about January 30, 1987, the California Board of Accountancy
25 (Board) issued Certificate No. 47320 (CPA) to David L. Ulbrich, (Respondent). The
26 license was last renewed in "inactive" status on December 10, 1998. The license
27 expired on November 30, 2000. On March 2, 1999, Respondent was issued a citation
28 (CT-1999-114) for engaging in the practice of public accountancy with an expired CPA

1 license. The citation was paid in full on April 25, 2000. The initial license issued expired
2 on November 30, 1988, and was not renewed until March 27, 1990. The license
3 expiring on November 30, 1990, was renewed on January 11, 1991. The license
4 expiring on November 30, 1992, was renewed on January 25, 1993. The license
5 expiring on November 30, 1994, was renewed on January 25, 1995. The license
6 expiring on November 30, 1996, was not renewed until October 8, 1997 (with this
7 renewal the licensee converted from "active" to "inactive" status). The license expiring
8 on November 30, 1998, was renewed on December 10, 1998.

9 JURISDICTION

10 3. This Accusation is brought before the Board, under the authority of
11 the following sections of the Business and Professions Code (Code).

12 4. Section 5100 of the Code states that after notice and hearing the
13 Board may revoke, suspend or refuse to renew any permit or certificate granted under
14 Article 4 (commencing with Section 5070) and Article 5 (commencing with Section
15 5080), or may censure the holder of that permit or certificate for unprofessional conduct
16 which includes, but is not limited to, the following:

17 (f) Willful violation of this chapter or any rule or regulation promulgated
18 by the Board under the authority granted under this chapter.

19 5. Section 5050 of the Code states that no person shall engage in the
20 practice of public accountancy in this State unless such person is the holder of a valid
21 permit to practice public accountancy issued by the Board; provided, however, that
22 nothing in this chapter shall prohibit a certified public accountant or a public accountant
23 of another state, or any accountant of a foreign country lawfully practicing therein, from
24 temporarily practicing in this State on professional business incident to his regular
25 practice in another state or country.

26 6. Section 5051 of the Code states, in pertinent part, that a person
27 shall be deemed to be engaged in the practice of public accountancy within the meaning
28 and intent of this chapter if he does, but not limited to, the following:

1 (g) Prepares or signs, as the tax preparer, tax returns for clients.

2 7. Title 16, California Code of Regulations, section 3(a)(1) states, in
3 pertinent part, that each licensee shall notify the Board of any change in his address of
4 record within 30 days after the change.

5 8. Title 16, California Code of Regulations, section 3(a)(2) states, in
6 pertinent part, that "licensee" includes any holder of an active, inactive, suspended, or
7 expired certified public accountant license or public accountant license issued by the
8 Board which is not canceled or revoked.

9 9. Title 16, California Code of Regulations, section 80(a) states that
10 the holder of an inactive license shall not engage in the practice of public accountancy
11 as defined in section 5051 of the Code.

12 10. Section 118(b) of the Code states, in pertinent part, that the
13 suspension, expiration, surrender or cancellation of a license shall not deprive the Board
14 of jurisdiction to proceed with a disciplinary action during the period within which the
15 license may be renewed, restored, reissued or reinstated.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Practicing With An Expired License)**

18 11. Respondent is subject to disciplinary action pursuant to sections
19 5100(f) and 5050 of the Code, in that Respondent engaged in the practice of public
20 accountancy as defined under Code section 5051(g) when, in fact, his license had
21 expired as follows:

22 a. In or around early 2001, Respondent prepared Kelly S.'s Federal
23 income tax returns for the year 2000. Respondent's name and CPA designation
24 appeared in the paid preparer's box in the 2000 Federal income tax returns. When in
25 truth and fact, Respondent's CPA license expired on November 30, 2000.

26 **SECOND CAUSE FOR DISCIPLINE**

27 **(Practicing With An Inactive License)**

28 12. Respondent is subject to disciplinary action pursuant to section

1 5100(f) of the Code and in violation of Title 16, California Code of Regulations, section
2 80(a), in that Respondent engaged in the practice of public accountancy with an inactive
3 CPA license as follows:

4 a. On or about October 8, 1997, Respondent's CPA license was
5 converted to "inactive" status and expired on November 30, 2000. However, in or
6 around mid-2000, during a period when Respondent's license was inactive, Respondent
7 provided accounting services to Kelly S. and received \$400 by Kelly S. for these
8 services.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Failure to Notify Board of Address Change)**

11 13. Respondent is subject to disciplinary action pursuant to section
12 5100(f) of the Code and in violation of Title 16, California Code of Regulations, section
13 3(a)(1), in that Respondent failed to notify the Board of at least two changes of address
14 as follows:

15 a. In or around, June 2001, Respondent failed to notify the Board in
16 writing of his change of address from Yarmouth Avenue in Encino to his parents'
17 address on Martha Street in Woodland Hills.

18 b. Between October 2001 and January 2002, Respondent failed to
19 notify the Board in writing of his change of address from Martha Street in Woodland Hills
20 to his current address, which is unknown.

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22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the
24 matters herein alleged, and that following the hearing, the California Board of
25 Accountancy issue a decision:

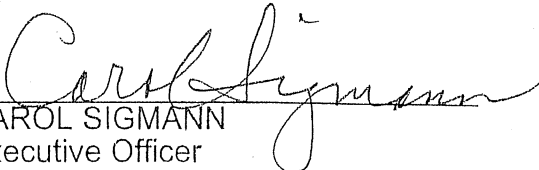
26 1. Revoking, suspending or otherwise imposing discipline upon
27 Certified Public Accountant Certificate Number 47320, issued to David L. Ulbrich, CPA;

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2. Taking such other and further action as the Board deems proper.

DATED: July 8, 2002


CAROL SIGMANN
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

03541110-LA2002AD1009
LBF 6-27-02